

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	<u>DECLARATION OF</u>
- v. -	:	<u>TIMOTHY BERGEN</u>
	:	
SETH FISHMAN,	:	S6 20 Cr. 160 (MKV)
	:	
Defendant.	:	
	:	
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STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

Timothy Bergen, under penalty of perjury, declares:

1. I am a Special Agent with the Federal Bureau of Investigation (the “FBI”).

I have been a Special Agent for approximately 6 years and have taken part/conducted many money laundering and fraud investigations. I also personally took part in the investigation related to SETH FISHMAN (the “Defendant”).

2. I respectfully make this declaration in connection with the Government’s application for a Preliminary Order of Forfeiture as to Substitute Assets, as to the following property:

- a) Any and all funds on deposit in Citibank, N.A. account 9144769909, held in the name of Seth Fishman;
- b) Any and all funds on deposit in Citibank, N.A. account 9139136538, held in the name of Seth Fishman;
- c) Any and all funds on deposit in Citibank, N.A. account 9139136525, held in the name of Seth Fishman;

- d) Any and all funds on deposit in Citibank, N.A. account 9139800880, held in the name of Seth Fishman;
- e) Any and all funds on deposit in CreditCorp Bank, S.A. account 4010102652, held in the name of Equine Performance Inc. and beneficially owned by Seth Fishman;
- f) Any and all funds on deposit in CreditCorp Bank, S.A. account 4010102668, held in the name of Equine Performance Inc. and beneficially owned by Seth Fishman;
- g) Any and all funds on deposit in Paypal account 2009696405473359310, held in the name of Seth Fishman;
- h) The real property located at street address 2565 South Ocean Blvd Apartment 412 N, Highland Beach, Florida 33487 with a legal description of Unit No. 412-N, in the Townhouses of Highland Beach Condominium, a condominium, according to the Declaration of Condominium thereof, as recorded in Official Recorded Book 3466, at Page 791, of the Public Records of Palm Beach County, Florida;
- i) The real property located at street address 2575 South Ocean Blvd Unit 303 South, Highland Beach, Florida 33487 with a legal description of Unit No. 303-S, in the Townhouses of Highland Beach Condominium, a condominium, according to the Declaration of Condominium thereof, as recorded in Official Recorded Book 3466, at Page 791, of the Public Records of Palm Beach County, Florida and any amendments therein together with its undivided share in the common elements;
- j) \$70,049.59 in United States currency on deposit in Wells Fargo account number ending in -9455, held in the name of Green & Willstatter Attorney Trust;

(a. through j., collectively, the “Substitute Assets”).

3. From my review of the case file, I am familiar with the facts and circumstances of this forfeiture case. Because this declaration is being submitted for a limited purpose, I have not included in it everything I know about this forfeiture case. Where the contents of documents and the actions, conversations, and statements of others are related herein, they are related in substance and in part.

The Indictment

4. On or about November 5, 2020, SETH FISHMAN (the “Defendant”), among others, was charged in two counts of a five-count Superseding Indictment, S6 20 Cr. 160 (MKV) (the “Indictment”), with conspiracy to misbrand and adulterate drugs in interstate commerce with intent to defraud or mislead, in violation of Title 18, United States Code, Section 371, and Title 21, United States Code, Sections 331 and 333 (Counts One and Two).

5. The Indictment included a forfeiture allegation as to Counts One and Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 334, and Title 28, United States Code, Section 2461(c), of any and all drugs that were adulterated or misbranded when introduced into or while in interstate commerce or while held for sale, including but not limited to a sum of money in United States currency representing the value of such property.

6. On or about February 2, 2022, the Defendant was found guilty, following a jury trial, of Counts One and Two of the Indictment.

The Order of Forfeiture

7. On or about July 10, 2023, the Court entered an Order of Forfeiture/Money Judgment (D.E. 1109), imposing a money judgment against the Defendant in the amount of \$10,312,627.40 in United States Currency (the “Money Judgment”).

8. To date, the Money Judgment against the Defendant remains unpaid.

The Substitute Assets

9. I have conducted an investigation into any assets of the Defendant’s that constitute proceeds of the offense or that may be available as substitute assets. In order to locate any assets of the Defendant, I reviewed reports of other law enforcement agents who have

conducted asset searches utilizing the CLEAR law enforcement database, reviewed information provided in the Probation Office's Pretrial Services Report, and reviewed materials, including intercepted phone calls, gathered during the course of my investigation.

10. My investigation into the Defendant's assets is ongoing. To date, the only assets of the Defendant's that I have been able to locate are the Substitute Assets.

I declare under penalties of perjury that the foregoing is true and correct, pursuant to Title 28, United States Code, Section 1746.

Dated: New York, New York
September 5, 2023

/s/ Timothy Bergen
Timothy Bergen
Special Agent
Federal Bureau of Investigation